

## CHAPTER 108

### BUSINESS AND NONPROFIT ENTITIES — STATEMENTS OF AUTHORITY — REAL ESTATE TRANSFERS

H.F. 566

**AN ACT** to establish requirements relating to the transfer of an interest in real estate by or on behalf of certain entities formed or organized on a profit, cooperative, or not-for-profit basis, and including warranties and a limitation on actions.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I STATEMENT OF AUTHORITY

Section 1. Section 486A.303, subsection 7, Code 2013, is amended to read as follows:

~~7. Unless earlier canceled, a filed A statement of partnership authority is canceled by operation of law five years after the date on which the statement, or the most recent amendment, was filed with by the secretary of state is effective until amended or canceled, unless an earlier cancellation date is specified in the statement.~~

Sec. 2. Section 489.302, subsection 10, Code 2013, is amended to read as follows:

~~10. Unless earlier canceled, an effective A statement of authority is canceled by operation of law five years after the date on which the statement, or its most recent amendment, becomes effective filed by the secretary of state under section 489.205, subsection 1, is effective until amended or canceled as provided in subsection 2, unless an earlier cancellation date is specified in the statement. This cancellation operates without need for any recording under subsection 6 or 7.~~

Sec. 3. Section 501B.7, subsection 7, Code 2013, is amended to read as follows:

~~7. Unless canceled earlier, a filed A statement of authority and its most recent amendment expire five years after the date of the most recent filing filed by the county recorder as provided in subsection 2 is effective until amended or canceled, unless an earlier cancellation date is specified in the statement.~~

#### DIVISION II LIMITED LIABILITY COMPANIES

Sec. 4. **NEW SECTION. 489.407A Real estate interest transferred by limited liability company or foreign limited liability company.**

1. A transfer of an interest in real estate situated in this state held by a limited liability company or a foreign limited liability company authorized to transact business in this state is subject to the provisions of this section.

2. *a.* In a member-managed company, a transfer of an interest in real estate held by the company may be undertaken by any of the following:

(1) As provided in the operating agreement, or if the operating agreement does not so provide, only with the consent of all members.

(2) As provided in a statement of authority filed by the company with the secretary of state and the recorder of the county where the real estate is situated pursuant to section 489.302.

*b.* A requirement of paragraph “*a*” is applicable to every transfer of an interest in real estate situated in this state held by a member-managed company, whether or not the transfer is in the ordinary course of the company’s business.

3. *a.* In a manager-managed company, a transfer of an interest in real estate held by the company may be undertaken by any of the following:

(1) As provided in the operating agreement, or if the operating agreement does not so provide, only with the consent of a majority of all managers.

(2) As provided in a statement of authority filed by the company with the secretary of state and the recorder of the county where the real estate is situated pursuant to section 489.302.

b. A requirement in paragraph “a” is applicable to every transfer of an interest in real estate situated in this state held by a manager-managed limited liability company, whether or not the transfer is in the ordinary course of the company’s business.

DIVISION III  
TRANSFERS BY ENTITIES — WARRANTY AND STATUTE OF LIMITATIONS

Sec. 5. NEW SECTION. 558.72 **Real estate transfers by certain entities.**

1. As used in this section, unless the context otherwise requires:

a. “Entity” means any of the following:

(1) A partnership, limited liability partnership, or foreign limited liability partnership as provided in chapter 486A.

(2) A limited partnership, foreign limited partnership, limited liability limited partnership, or foreign limited liability limited partnership as provided in chapter 488.

(3) A limited liability company or foreign limited liability company as provided in chapter 489.

(4) A corporation or foreign corporation as provided in chapter 490 or a nonprofit corporation or foreign nonprofit corporation as provided in chapter 504.

(5) A cooperative association as provided in chapter 497 or 498; an association, corporation, or foreign corporation as provided in chapter 499; a cooperative as provided in chapter 499A; a cooperative as provided in chapter 501; or a cooperative or foreign cooperative as provided in chapter 501A.

(6) An unincorporated nonprofit association as provided in chapter 501B.

b. “Instrument transferring an interest in real estate” means a deed, real estate contract, lease, easement, mortgage, deed of trust, or any other instrument used to effect the transfer of an interest in real estate situated in this state by any act to sell, transfer, convey, assign, lease, mortgage, or encumber the interest in the real estate.

2. An instrument transferring an interest in real estate situated in this state by an entity, unless clearly and conspicuously provided to the contrary in the instrument, includes a warranty to the transferee by the person executing the instrument of all of the following:

a. That the transferor entity is in existence at the time of the transfer.

b. That the person executing the instrument has been duly authorized by the transferor entity to execute the instrument on behalf of the entity.

c. That the person executing the instrument has the legal capacity to execute the instrument.

d. That the person knows of no facts or legal claims that might impair the validity of the transfer, including whether the instrument was given in the ordinary course of business.

3. An action to invalidate a transfer of real estate by deed or real estate contract by an entity shall be subject to the time limitations set forth in section 614.14A.

Sec. 6. NEW SECTION. 614.14A **Real estate interests transferred by entities.**

1. As used in this section, unless the context otherwise requires:

a. (1) “Adverse claim” means a claim that the transfer of an interest in real estate to a transferee is invalid and should be set aside based on an allegation that the execution and delivery of a deed or real estate contract was not authorized by the entity.

(2) “Adverse claim” does not include a claim that a deed or real estate contract purports to transfer a greater interest than the entity legally could transfer.

b. “Entity” means the same as defined in section 558.72.

2. A transfer of an interest in real estate situated in this state by an entity by a deed or real estate contract is subject to the provisions of this section.

3. a. With regard to any deed or real estate contract executed by an entity and filed of record with the recorder of the county in which the real estate is situated, which is recorded prior to the effective date of this Act, the holder of an adverse claim shall not file an action, at law or in equity, to enforce the adverse claim or to invalidate such transfer five years after the effective date of this Act.

b. With regard to any deed or real estate contract executed by an entity and filed of record with the recorder of the county in which the real estate is situated, which is recorded on or

after the effective date of this Act, the holder of an adverse claim shall not file an action, at law or in equity, to enforce the adverse claim or to invalidate such transfer more than two years after the date of recording of the instrument.

4. This section shall not be construed to limit any personal action against a person who executed an instrument purportedly transferring an interest in real estate on behalf of an entity for damages based on a claim arising out of an allegation that the execution and delivery of the instrument was not authorized by the entity or that a warranty required in section 558.72 was false.

Approved May 15, 2013